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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,730	08/18/2003	Chandrasckhar Narayanaswami	YOR920030211US1	4685
23334 7590 11/26/2007 FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI & BIANCO P.L. ONE BOCA COMMERCE CENTER 551 NORTHWEST 77TH STREET, SUITE 111 BOCA RATON, FL 33487			EXAMINER ARAQUE JR, GERARDO	
			ART UNIT 3629	PAPER NUMBER
			NOTIFICATION DATE 11/26/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoboca@focusonip.com

# Office Action Summary

Application No.

10/643,730

Applicant(s)

NARAYANASWAMI,  
CHANDRASEKHAR

Examiner

Gerardo Araque Jr.

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1 – 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over

**McClung, III (US Patent 7,107,225 B1)** in view of **Thakur et al. (US PGPub 2002/0194069 A1)**.

4. In regards to **claims 1, 8, and 15**, **McClung** discloses a method for offering purchase price protection for a product and/or service, the method comprising the steps of:

receiving, by a first web site, information directly from a user, the information being entered by the user at the first web site via a user interface at the first website, wherein the information (discussed below) is associated with a product and/or service that was purchased by the user, wherein the information includes the purchase price of the product and/or service and wherein the vendor offers purchase price protection for

the product and/or service, and wherein the user submits the information to the first web site by selecting a button on the user interface (discussed below) (Col. 4 Lines 8 – 30; Col. 5 Lines 41 – 54);

initiating, by the first web site, the purchase price protection for the product and/or service in response to the user selecting the button on the user interface (discussed below);

determining, a price for the product and/or service (**Column 2 19 – 23**);

determining whether the user is due a purchase price protection refund based on the price determined at the second web site (**Column 1 Lines 39 – 45; Column 3 lines 17 – 22**); and

sending an indication to the user indicating that the purchase price protection refund is due (**Column 1 Lines 58 – 60; Column 3 Lines 17 – 22**).

**McClung** further discloses, in certain embodiments, an improvement for a method for generating vendor information including contacting a host system by a consumer identifying at least one vendor doing business in a pertinent geographic area and retrieving from the host system information related to the vendor. The improvement including providing a method to guarantee to the consumer a better price or a best price on items or services purchased from the vendor for a predetermined time period following a transaction.

However, **McClung** fails to explicitly disclose whether a consumer performed the purchase at the host system or at the vendor's web site. In spite of this, McClung fully

incorporates the patent application, "Business System" by Thakur et al., wherein Thakur discloses the communication system between a host system, consumer, and vendor.

**Thakur** discloses that a consumer makes an initial inquiry to the host system and fills out a host system questionnaire. The host system can further keep a record of the consumer's transactions with each vendor in its database including payments, discounts refunds, and accounting transactions. As can be seen in Fig. 1, the consumer can perform transactions directly with the vendor and provide any necessary information to complete the host system questionnaire. The host system is also in communication with the vendor and the consumer, as well. As a result, it would have been obvious for a consumer to purchase a product from a vendor, provide the vendor information to the host system, having the host system search for the vendor within the host system database, and have the host system be in communication with the vendor in order to monitor any transactions made between the vendor and the consumer (**See Fig. 1, Page 5 – 6 ¶ 57, 61 – 64; Page 7 ¶ 74**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **McClung** in view of the teachings of **Thakur** to provide a system where a consumer can perform a transaction with a vendor, provide the vendor information to a host system, and have the host system be in communication with the vendor in order to monitor any transactions made between the vendor and consumer in the event that a refund or discount is applicable.

5. In regards to **claims 2, 9, and 16**, **McClung** discloses wherein the user interface at the first web site includes a web page having a list of text fields and identifiers for the

user to enter at least one of the following information associated with a product and/or service that was purchased by the user from the second web site, the user thereby providing information directly to the first web site (**Column 4 Lines 8 – 30**):

- a name of the product and/or service;
- a description of the product or service;
- an identifier of the product and/or service;
- a name, address and telephone number of the second web site;
- a date the product and/or service was purchased by the user;
- a price the user paid for the product and/or service; and
- a type of purchase price protection offered by the second web site.

6. In regards to **claims 3, 10, and 17**, the **combination of McClung and Thakur** discloses wherein the first determining step comprises the steps of:

visiting the second web site (**McClung Col. 4 Lines 8 – 30; Col. 5 Lines 41 – 54; Thakur Fig. 1, Page 5 – 6 ¶ 57, 61 – 64; Page 7 ¶ 74**);

selecting the product and/or service on the second web site (**McClung Column 4 Lines 8 – 30; Col. 5 Lines 41 – 54; Thakur Fig. 1, Page 5 – 6 ¶ 57, 61 – 64; Page 7 ¶ 74**); and

reading from the second web site a price associated with the product and/or service (**McClung Column 2 Lines 19 – 35; Col. 4 Lines 8 – 30; Col. 5 Lines 41 – 54; Thakur Fig. 1, Page 5 – 6 ¶ 57, 61 – 64; Page 7 ¶ 74**).

7. In regards to **claims 4, 11, and 18**, **McClung** discloses wherein the second determining step comprises the steps of:

determining a time period of the purchase price protection offered by the second web site for the product and/or service, the current time, the purchase price of the product and/or service, and the current price of the product and/or service at the second web site (**Column 4 Lines 8 – 30**); and

if the current time is within the time period of the purchase price protection and the purchase price of the product and/or service is greater than the price at the second web site, then determining that the user is due a purchase price protection refund (**Column 1 Lines 39 – 45**); and

otherwise, determining that the user is not due a purchase price protection refund (**obviously included**).

8. In regards to **claims 5, 12, and 19, McClung** discloses further comprising the step of:

the first web site providing directly to the user with information necessary for redeeming the refund that is due from the purchase price protection offered by the second web site, such that the user may redeem the refund directly from the second web site (**Columns 7 – 8 Lines 47 – 20**).

9. In regards to **claims 6, 13, and 20, McClung** discloses further comprising the steps of:

the first web site sending directly to the user a refund corresponding to the refund due from the purchase price protection offered by the second web site (**Claim 6**); and

the first web site redeeming from the second web site, on behalf of the user, the refund the user is due from the purchase price protection offered by the second web site

(Col. 1 Lines 47 – 52, 64 – 67; wherein it would have been obvious to one of ordinary skill in the art that the host system is in communication with the vendors and when a refund becomes available the host system will handle the making available of the refund to the customer and credit the amount to the customer's account).

10. In regards to **claims 7 and 14**, **McClung** discloses wherein the first web site and the second web site are separate e-commerce web sites (**Column 1 Lines 53 – 60; Column 2 Lines 14 – 29**).

#### ***Response to Arguments***

11. Applicant's arguments filed 10/31/07 have been fully considered but they are not persuasive.

#### **Rejection under 35 USC 103**

12. Applicant argues that the combination of **McClung** and **Thakur** fails to disclose or suggest:

- a. After a user purchases an item from a second web site, the user uses a user interface at the first website to enter information associated with the item purchased by the user from the second website;
- b. The user entering information for purchase price protection;
- c. After a user purchases an item from a second website the user goes to a different website. The user then enters information via a user interface at that different website including at least the purchase price of the item;



- d. The user submits the entered information by selecting a button on the user interface;
- e. A first website;
- f. A web page having a list of text fields and identifiers; and
- g. The user providing **at least one** of the following types of information using the text fields and identifiers (see page 14 of remarks for the list of information and claim 2).

**Regarding (a) and (c)**

13. **McClung** discloses that a consumer logs into the host system wherein the host system provides a means for recording the first price, which is obviously associated with the item purchased, and information identifying the consumer (**Col. 1 Lines 39 – 52, 60 – 64; Col. 4 – 5 Lines 67 – 1**).

**Regarding (b) and (c)**

14. **McClung** discloses means for guaranteeing a consumer a best price on an item **purchased** from the vendor in a first transaction at a first price by recording the first price and information identifying the consumer to the host system, wherein the host system includes means for monitoring the sales price of the item, means for noting any price lower than the first price, means for refunding to the consumer an amount equal to the money-value difference (**Figure 2**).

**Regarding (d)**

15. Although **McClung** fails to explicitly disclose that the user submits the entered information by selecting a button on the user interface, the Examiner asserts that it

would have been obvious to one having ordinary skill in the art that the interface must include a button in order to allow the user to submit the inputted information.

**Regarding (e)**

16. As discussed above, **McClung** discloses that the consumer enters the product information purchased from a vendor into the host system, wherein the host system then monitors the price of the product to determine whether a refund is applicable.

**Regarding (f) and (g)**

17. The Examiner asserts that it is obviously included for the host system to have a listing of text fields and identifiers in order for the user to properly input the necessary information into the host system, wherein the host system then monitors the price of the product to determine whether a refund is applicable. Moreover, as discussed above, **McClung** discloses that the price of the product is inputted into the system.

**Regarding Thakur**

18. In response to applicant's argument that that **Thakur** teaches that the user interacts with a host system prior to purchasing an item from a vendor, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

The Examiner has already stated that **Thakur** was used to teach the system used in the method of **McClung**. That is to say, **McClung** discloses using the system of **Thakur** to allow a user to interact with the host system after a purchase has been made

(Col. 1 Lines 39 – 45, 60 – 63; Col. 4 – 5 Lines 67 – 8; Figure 1). **McClung** discloses that it is obvious that the consumer logs into the host system after a purchase is made from a vendor, which would obviously include purchases made from another web site, and provides the product information to the host system. The host system then monitors the price of the purchased item with the prices of other vendors and would then notify the consumer if a refund is available.

Although, the applicant argues that it appears that **Thakur** uses the system prior to a purchase or that the system is used for discounts or that it does not mention price protection the Examiner asserts that **Thakur** was not used to teach these limitations. As discussed above, **McClung** teaches all of these limitations, but fails to teach how the different components of the system interact with each other. The fact that **Thakur** may teach that the communication is carried out prior to a purchase does not change the fact that **McClung** teaches that it would have been obvious to one having ordinary skill in the art that the communication can also be carried out after a purchase has been made. That is to say, the Examiner provided **Thakur** as an additional teaching in order to show that the system used by **McClung**, which is the system found in **Thakur**, would have obviously allowed one having ordinary skill in the art that a consumer can perform a transaction with a vendor, provide the vendor information to a host system, and have the host system be in communication with the vendor in order to monitor any transactions made between the vendor and consumer in the event that a refund or discount is applicable.

#### **Dependent Claims**

19. All rejections made towards the dependent claims are maintained due to the lack of a reply by the applicant in regards to distinctly and specifically point out the supposed errors in the examiner's action in the prior Office Action (37 CFR 1.111). The Examiner asserts that the applicant only argues that the dependent claims should be allowable because the independent claims are unobvious and unpatentable over **McClung** in view of **Thakur**.

***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure can be found in the PTO-892 Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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GA  
11/17/07



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